

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:12-CV-69-H

ROSE LORENZO, on behalf of)
herself and all others)
similarly situated,)
)
Plaintiff,)
)
v.)
)
PRIME COMMUNICATIONS, L.P., a)
Texas General Partnership,)
)
Defendant.)

ORDER

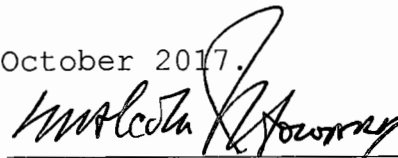
This is an action under the Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq., ("FLSA") and the North Carolina Wage and Hour Act, N.C. Gen. Stat. §§ 95-25.1 et seq., brought by Plaintiff Rose Lorenzo against her former employer, Prime Communications, L.P. The court previously entered orders conditionally certifying Plaintiff's FLSA claim as a collective action pursuant to 29 U.S.C. § 216(b), [DE #74], and certifying a Rule 23 class as to Plaintiff's state-law claims, [DE #94]. Presently before the court are offers of judgment made to and accepted by one individual, plaintiff Joseph Yanda,¹ who has opted-in to the FLSA collective action. United States Magistrate Judge Kimberly A. Swank filed a memorandum and recommendation ("M&R") on January 3,

¹ The Notice of Acceptance before the court also indicates acceptance of an offer made to a second plaintiff, Brett Bashore. However, because Mr. Bashore is the subject of an additional Notice of Acceptance, [DE #254], filed in this action, Judge Swank filed a separate M&R as to Mr. Bashore, [DE #335]. The instant order does not apply to Mr. Bashore.

2017, [DE #265], recommending this court direct the clerk to enter judgment as to the accepted offer of judgment of named plaintiff Joseph Yanda. Defendant filed an objection, [DE #274], stating the named party had previously accepted an offer of judgment, [DE #220], prior to the Notice of Acceptance before the court in the M&R, [DE #259]. Magistrate Judge Swank subsequently filed an Order and M&R, [DE #334], vacating the prior M&R filed on January 3, 2017, [DE #265], and recommending that the request of the named plaintiff Joseph Yanda, that judgment be entered in his favor pursuant to the Notice of Acceptance of Rule 68(A) Offer of Judgment, filed December 22, 2016, [DE #259], be denied.

Therefore, the court having reviewed the M&Rs and other pertinent documents of record finds the recommendation of the magistrate judge is in accordance with law and should be approved. Therefore, the court adopts the findings of the M&R, [DE #334], as its own and hereby denies plaintiff Joseph Yanda's request that judgment be entered in his favor pursuant to the Notice of Acceptance of Rule 68(A) Offer of Judgment, filed December 22, 2016, [DE #259].

This 31st day of October 2017.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
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